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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/781,219

02/18/2004

Floyd Backes

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34845 7590 02/28/2007
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EXAMINER

TRINH, TAN H

ART UNIT

PAPER NUMBER

2618

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/781,219

Applicant(s)

BACKES ET AL.

Examiner

TAN TRINH

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-5 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. Regarding the double patenting rejection as in the previous action, it is now withdrawn based on applicant's submitted a Terminal Disclaimer file on 12-13-2006.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shpak (U.S. Patent No. 6,907,229) in view of Rotstein (U.S. Pub. No. 2004/0057507).

Regarding claim 1, Shpak teaches a method for use by a station (22-23, 25 and 27) capable of communicating in a wireless communications network via a radio frequency channel (see fig. 1, access points (AP) 22-23, 25 and 27, communication with multiple mobile stations 24, 29 and 31), comprising the steps of: receiving a message from an access point (see col. 4, lines 36-44), the message containing information about the access point's power level (see col. 9, lines 5-17); adjusting transmit power in response to the information in the message (see col. 4, lines 40 - col. 5, lines 18), (Since second access point transmitting the second downlink signal includes adjusting a second downlink power level in response to the second uplink power level signal).

Still regarding claim 1, Shpak teaches receiving a message from an access point (see col. 4, lines 36-44), the message containing information about the access point's power level to

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other access point and mobile station 24 (see col. 9, lines 5-28). But Shpak does not mention the newly added limitation of: the message containing information *indicative of an amount by which to attenuate transmit power* and adjusting transmit power *by the indicated of an amount* in response. Such teaching is taught by Rotstein (see figs. 1-4, and fig. 3, message 300, the message containing information indicative of an amount by which transmit power level 202 and interference level 204, page 1, sections [0016-0017], and pages 2-3, sections [0018-0026]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify above teaching of Shpak with Rotstein, in order to compensate for link path loss and local interference by the access point (see suggested by Rotstein on page 3, section [0026]).

Regarding claim 2, Shpak teaches wherein the information is a transmit backoff level that indicates how far the access point's power has been reduced (see col. 8, lines 64 - col. 9, lines 17), (since the back off level is reduced level).

Regarding claim 3, Shpak teaches wherein the step of adjusting transmit power *reduce* the station's (B) transmit power *relative to maximum transmit power* by the transmit back off level received in the message (see fig. 2, col. 4, lines 40 - col. 5, lines 18, col. 8, lines 51-col. 9, lines 5-38). Since the adjusting transmitted power by reduce the power level, by the transmitted back off level to keep below the threshold relative to full power level.

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Regarding claim 4, Shpak teaches transmitting messages to other devices in the wireless communications network (see col. 9, lines 6-14), the messages including a power back off level indicative of the amount by which the station's transmit power has been adjusted (see fig. 2, and col. 9, lines 12 - col. 10, line 29, and also see col. 4, lines 40 - col. 5, lines 18, for access point is adjusting transmit power).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 5 is rejected under 35 U.S.C. 102(e) as being anticipated by Shpak (U.S. Patent No. 6,907,229).

Regarding claim 5, Shpak teaches a method for use by a station (22-23, 25 and 27) capable of communicating in a wireless communications network (20) via a radio frequency channel (see fig. 1, access points (AP) 22-23, 25 and 27, communication with multiple mobile stations 24, 29 and 31), comprising the steps of: receiving a message from an access point (see col. 4, lines 36-44), the message containing a transmit power back off level that indicates how far the access point's (B) power has been reduced (see col. 8, lines 64 - col. 9, lines 17); adjusting transmit power by setting the station's (B) transmit power to the transmit back off level received in the message (see col. 4, lines 40 - col. 5, lines 18, and col. 9, lines 5-17); and transmitting

messages to other devices in the wireless communications network (see col. 9, lines 6-14), the messages including a power back-off level indicative of the amount by which the station's (B) transmit power has been adjusted (see fig. 2, and col. 9, lines 12 - col. 10, line 29, and also see col. 4, lines 40 - col. 5, lines 18).

Response to Arguments

6. Applicant's arguments filed on 12-13-2006 have been fully considered but they are not persuasive.

Applicant argues that the reference of Shpak does not teaches the station is operative to adjust power in response to signaling from the access point. However, the examiner does not agree. Since the reference of Shpak teaches the station (B or 27) is operative to adjust power in response to signaling from the access point (A or 22) (see fig. 2, the station (B or 27) power has been reduced (step 54) and in response to signaling (step 44) from the access point (A or 22), col. 8, lines 17-67, col. 9, lines 1-67 and col. 10, lines 1-29) and also (see col. 4, lines 40 - col. 5, lines 18). Therefore, the reference of Shpak teaches the limitation of the claim invention.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(571) 273-8300, (for Technology Center 2600 only)

*Hand-delivered responses should be brought to the Customer Service Window (now located at the **Randolph Building, 401 Dulany Street, Alexandria, VA 22314**).*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Trinh whose telephone number is (571) 272-7888. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor, Anderson, Matthew D., can be reached at (571) 272-4177.


The fax phone number for the organization where this application or proceeding is assigned is **(571) 273-8300**.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600 Customer Service Office** whose telephone number is **(703) 306-0377**.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tan H. Trinh 
Division 2618
Feb. 26, 2007


Anderson, Matthew D. (SPE 2618)